IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL W.P.NO.2359 OF 2005

Mr.Ashok Shamkant Satpute
and Anr. ..Petitioners

Vs.

Mr.Ajit Mahadev Korade
& Anr. ..Respondents

...

Mr.B.A.Allor Advocate for Petitioners
Mr.V.B.Konde-Deshmukh A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : OCTOBER 28, 2005

P.C.

1. Leave to amend granted. Amendment to be carried out forthwith.

2. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

3. The petitioners are seeking quashing of proceedings relating to Criminal Case No.4039 of 2004 which is pending before the learned Judicial Magistrate, F.C.No.4 (L). In the said case,

process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the petitioners is set aside, the proceedings in respect of the petitioners, would come to an end.

4. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the petitioners to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the

petitioners makes a statement that the necessary revision will be preferred within four weeks from today. I am informed that the next date before the trial Court is 14.11.2005. In view of this statement, the trial Court shall not proceed with the trial on 14.11.2005 and for a period of two weeks thereafter.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. It is stated on behalf of the petitioners that in the said case, NBWs came to be issued by order dated 19.10.2005 against the petitioners. It is prayed that the said NBWs be quashed. I am not inclined to quash NBWs as in my opinion, it would be appropriate that the petitioners prefer an application before the trial Court for setting aside the said NBWs.

. Liberty is granted to the petitioners to prefer

the necessary application. The learned advocate for the petitioners states that the necessary application will be preferred within six weeks from today. In order to enable the petitioners to take necessary steps for setting aside NBWs, the said NBWs are stayed for a period of six weeks from today.

8. Writ Petition is disposed of.

[SMT.V.K.TAHILRAMANI,J.]